

## **LASSEN LAFCO**

February 10, 2014

### **Executive Officer's Report**

#### **Formation of the Southern Cascades Community Services District**

##### **Proposal Summary**

LAFCO received a Resolution of Application from both the Modoc County Board of Supervisors (Resolution 2014-02) and the Lassen County Board of Supervisors (Resolution 14-007) to form a local Emergency Medical Services Community Services District with a coterminous Sphere of Influence in southwestern Modoc County and northwestern Lassen County (including the communities of Bieber, Nubieber, Adin and the Termo area) consisting of 1670 square miles of unincorporated territory with local ambulance, emergency medical services and emergency medical training. A local ambulance does not serve the area within this territory. Ambulances to serve the territory must come from Alturas, Fall River or Susanville. Response times are slow especially during winter months. Another issue is ambulance service providers in the Susanville, Fall River Valley and Alturas areas may be in use and unable to respond to services in the Big Valley area, for example. The Last Frontier Healthcare district and the Meyers Healthcare district currently serve this the territory with health care services and operate hospitals in Alturas and Fall River Mills respectively. The purpose of this formation is to provide local emergency medical services to the area proposed for inclusion in the district.

Prior to its formation, the new district will need to meet the requirements of Proposition 218 and the registered voters will need to pass a Special Tax as a condition of the district's formation. If the Commission approves the formation, registered voters in the proposed district area in both Modoc and Lassen Counties will be asked to approve a special tax based on the Business Plan submitted to LAFCo to raise funds for operations. Confirmation by voters for the formation of the District will also be required. LAFCO's approval of this proposal, therefore, would be conditional upon the success of the adoption and certification of a special tax passed by the registered voters. In addition, no duplication of services currently being performed by any other service provider shall be allowed by this formation since the fire departments in the area (Lookout, Adin and Big Valley FPD's) do not provide advanced life support services and no locally based ambulance exists. As stated in the public notice the Commission may also modify or deny this proposal. Technical Factors for Consideration are attached as *Attachment #7*.

##### **Recommendation**

Staff recommends the Commission take the following actions:

- Approve the proposal to form the Southern Cascades Community Services District, conditional upon approval by the voters a special tax proposed to fund the district in accordance with the Business Plan for services, complying with the request of the Board of Supervisors of both Modoc and Lassen counties contained in Modoc Board

Resolution # 2014-02 and Lassen Board Resolution 2014-007 and this formation being subject to confirmation of the voters in a special or general election.

LAFCO Resolution 2014-0001 (*Attachment 1*), has been drafted for the Commission's consideration and contains recommended terms and conditions discussed in this report.

**Suggested Motions:**

- *Adopt Proposed Resolution 2014-0001 (Attachment #1) approving the proposed formation of the Southern Cascades Community Services District, subject to recommended terms and conditions.*

**SECTION 1: PLAN FOR SERVICES AND JUSTIFICATION**

A Plan for Providing Services and a Statement of Justification is attached as *Attachment #2*. In summary the Statement of Justification states local emergency medical services no longer exists. On July 1<sup>st</sup>, 2013, the Last Frontier Healthcare district ceased providing local emergency medical services in the proposed formation territory (Last Frontier and Meyers Healthcare district will provide services with ambulances based in Alturas and Fall River Mills, respectively. The Plan for Providing Services enumerates the services to be provided including local 24-hour Advanced Life Support (ALS) services including transport. The service plan includes the need to levy a special tax to be approved by the voters to help fund the new district.

**SECTION 2: LAND USE PLANNING**

The Modoc and Lassen County General Plans are largely silent regarding ambulance and emergency medical services. These plans have no specific policies regarding ambulance and emergency medical services. Land Use in the area consists of small rural communities, ranching and forestry and scattered rural residential land uses.

**SECTION 3: FINANCING**

Attachment #3 is the Business Plan for the proposed health care district including a contingency reserve. To remain viable, a special tax will be required. The proponents of the new district propose to provide local ambulance, emergency medical services and training as functions under the district. The district will not duplicate the services of other service providers in the proposed territory and does not overlap with territory within the Last Frontier Healthcare District and the Meyer's Healthcare District.

**Feasibility**

To be viable, this district will need to seek voter approval of a special tax. Proposition 218 has been interpreted to require consent of the registered voters residing within the district. Prior to district formation LAFCO will require certification by the counties that a special tax has been approved to raise funds for services provided by the district.

A legal opinion was provided by Best, Best and Krieger regarding the legality of the Special Tax, which was approved for the formation of the Last Frontier Healthcare

District in Modoc County. The method of taxation for the Southern Cascades Community Services District is very similar to the method, which was used for the Last Frontier Healthcare District. See *Attachment # 4*.

Since the method of taxation is not directly referenced to the assessor's parcel layer there is no required filing with the State Board of Equalization. The district will be responsible for notifying each County each year of the special tax to be collected and list which parcels are to be assessed the special tax. The Counties will then collect the tax dollars on behalf of the district. Any costs incurred by Modoc or Lassen County should be reimbursed as part of the district's administrative budget. Alternatively, the district may wish to collect its revenues themselves.

The Commission may not approve the formation of a district that lacks adequate revenue sources. Assurance of a revenue source would provide the financial foundation for the new district; the Commission's approval must be conditioned upon a requirement of a special tax.

Minimal district administrative expenses include the cost of a yearly audit and liability insurance. Additionally, the district will need to repay the County (ies) for the costs of formation (the election costs).

The Commission does not have the authority to require either County to administer district funds. A condition to require the new district to confer with Lassen and Modoc Counties regarding expenditures of funds is therefore included.

#### **Property Tax Transfer**

The Cortese-Knox-Hertzberg Act requires LAFCO to transfer to a new district the amount of property tax used to fund the services that will become the responsibility of the new district (56810). In this case, the Counties have not expended funds to provide for ambulance and emergency medical services within the proposed territory. Therefore, no exchange of property tax (either increment or base property tax) shall occur since the Counties use no General Funds for local ambulance and emergency medical services. Therefore, a zero exchange of property tax between the Counties of Modoc and Lassen for the formation of the Southern Cascades Community Services District will occur.

#### **Grants, Donations, Rentals, Fees**

The district board will be eligible to apply for grants and accept donations and will also be authorized to charge fees.

#### **Provisional Appropriations Limit**

In 1979 voters passed Proposition 4, establishing what is referred to as the "Gann Limit." Also known as an "appropriations limit," this is the maximum amount of tax proceeds that an agency may spend each fiscal year. G.C. 56811 requires LAFCO to establish a provisional appropriations limit for a newly formed district. Once the provisional limit is established, the district will adjust it annually based on a formula involving population growth and the Consumer Price Index.

LAFCO law directs the Commission to calculate the provisional limit by estimating the amount of revenue anticipated to be received by the district from the proceeds of taxes

for the first full fiscal year of operation and then adjusting that amount for the estimated change in cost of living and population for the next full fiscal year.

Based upon the law's directive, the recommended provisional appropriations limits for the district will be \$0 for the first fiscal year, plus the amount of any new tax approved by the voters as part of the district formation.

## **SECTION 4: GOVERNANCE**

### **District Board Elections**

The initial Board of Directors shall consist of registered voters residing within the district territory and be appointed after district formation as follows:

- a. The Board of Supervisors of Lassen County shall make three initial appointments including registered voters residing within the Lassen County portion of the district to the district's board of directors
- b. The Board of Supervisors of Modoc County shall make two initial appointments including registered voters residing within the Modoc County portion of the district to the district's board of directors

Once the members are appointed, the five members shall classify themselves by lot into two classes one class shall have three members and the other class shall have two members. For the class that has three members, the terms of the offices that begin after the next general district election shall be four years. For the class that has two members, the initial terms of the offices that begin after the next general district election shall be two years. Thereafter, the terms of all members shall be four years.

Terms of office of the elected board members are determined pursuant to the Uniform District Election Law and shall be elected at large.

### **Effective Date of Formation**

The effective date would be upon recordation of the Certificate of Completion.

### **Sphere of Influence**

The Commission may adopt a sphere of influence for each district upon completion of the Municipal Service Review. It is recommended LAFCO establish a provisional Sphere of Influence with the same territory as the district and prepare an update to the sphere and a Municipal Services Review no sooner than one year after district formation. The sphere will therefore be amended as part of LAFCO's required sphere of influence update program.

## **SECTION 5: DISTRICT FORMATION – LAFCO'S PURPOSE**

The purpose of forming new districts is to provide the citizens of the proposed district opportunity to determine the level and appropriate scope of services.

Ultimately, it is up to the voters and landowners of each of the district to determine whether the district should be formed. LAFCO's responsibility is to assure that the

services are needed and that it is realistic to assume that the new district would be financially viable. Additionally, the Commission should determine how the new district will be governed and how it will coordinate with existing public agencies.

Staff has prepared a proposed resolution approving formation of the district, included herein as *Attachment 1*, which incorporates terms and conditions as well as provisions addressing other matters. The Commission may modify or add to the terms and conditions set forth in the proposed resolution.

## **SECTION 6: LAW, POLICY, AND PROCEDURE**

### **1. GOVERNING LAW FACTORS – Government Code Section 56668**

LAFCO is charged with applying the policies and provisions of the Cortese-Knox-Hertzberg Act to its decisions regarding annexations, incorporations, reorganizations, and other changes of government. Section 56668 of the Government Code states the following:

Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

- (a) Population, and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- (b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation; formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns, of urban development, and the policies and priorities set forth in Section 56377.
- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the

creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

- (g) Consistency with city or county general and specific plans.
- (h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- (i) The comments of any affected local agency.
- (j) The ability of the newly formed or receiving entity to provide the services which area the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- (k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5
- (l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with section 65580) of Chapter 3 of Division 1 of Title 7.
- (m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.
- (n) Any information relating to existing land use designations.
- (o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

These factors will be reviewed with regard to the Southern Cascades Community Services District Formation.

- (a) Population, and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

This proposal will not have any impact upon population growth in the area. The purpose of this proposal is to form an independent Special District to provide emergency medical services and transport.

- (b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation; formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

There is a need for local emergency medical and transport services in the proposed district formation area of Modoc and Lassen Counties. Additional revenue is needed to sustain these services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

This formation will have no effect on social and economic interests since there will be not additional growth induced.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns, of urban development, and the policies and priorities set forth in Section 56377.

The adopted Commission policies are examined below.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

Formation of a CSD for ambulance and emergency medical services will not have any impact upon agricultural lands in the proposed territory.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

The boundaries are definite and certain.

(g) Consistency with city or county general and specific plans.

The proposed development is consistent with the Modoc and Lassen County General Plans.

(h) The sphere of influence of any local agency, which may be applicable to the proposal, has been reviewed.

The area is within the proposed District Service Area boundary will not conflict with the Sphere of Influence of any other district providing ALS services.

(I) The comments of any affected local agency.

None received

(j) The ability of the newly formed or receiving entity to provide the services which area the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

Based upon implementation of the "Service Plan" and funding, the new district will have the ability to provide the requested services.

(k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5

N/A.

(l) The extent to which the proposal will affect a city or cities and the counties in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with section 65580) of Chapter 3 of Division 1 of Title 7.

N/A

(m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

No comments have been received.

(n) Any information relating to existing land use designations.

The district may serve anyone within any General Plan Designation.

(o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

There are no issues associated with environmental justice with this proposal.

#### **Governing Law LAFCO's Policies**

Generally, Government Code Sections 56000 *et seq.*, govern proceedings. When considering a proposal to create a new public entity, § 56301 requires the Commission to consider whether the services might be more efficiently provided by existing agencies. Section 56810 requires LAFCO to determine the appropriate amount of property tax to be transferred to the new agency. Since the Counties do not support ALS services in this area at this time, the amount of property tax transferred is zero. Note, however, LAFCO policies require a new district to be viable. Therefore, the Commission will establish a condition its approval regarding a special tax to generate such revenues.

A protest hearing is not required for this proposal provided the proposal is either subjected to a vote in the territory or there is otherwise no written opposition to the proposal. In the event of a protest proceeding, if 50% or more of the affected registered voters of either proposed district submit written protest, the proposal would be terminated. Since a special tax will be required voters shall be asked to confirm the formation of the district contingent upon passage of the special tax to raise funds stated in the Plan for services.

Relevant LAFCO procedures are discussed in more detail below.

#### **GENERAL POLICIES**

Communication between local agencies is encouraged.

Consistent. The CSD



	<b>Committee has contacted other agencies in the Area. Public Agencies have been given public notice.</b>
<b>Urban development proposals shall include annexation to a city where possible.</b> <i>This proposal is not an urban development proposal.</i>	<b>Not applicable</b>
<b>LAFCO will normally deny proposals that result in urban sprawl.</b> <i>This proposal is not likely to result in urban sprawl since there is no change in the baseline for this formation.</i>	<b>Not applicable</b>
<b>Environmental consequences (CEQA) shall be considered.</b> A notice of exemption is recommended since this project does not change the level and range of services provided in the area, there is no change in the environmental baseline and this action is merely a change of organization creating more accountability to the public.	<b>Consistent</b>
<b>LAFCO will consider the impact of a proposal on the regional supply of housing for all income levels.</b> <i>This formation will not have any foreseeable impact on the inventory of sites for housing.</i>	<b>Not applicable</b>
<b>LAFCO will favor proposals that promote compact urban form and infill development.</b> <i>This formation will not promote or detract from this policy objective.</i>	<b>Not applicable</b>
<b>Government structure should be simple, accessible, and accountable.</b> <i>While creation of a new government entity will not necessarily simplify the government structure, it does have the potential to increase accountability and accessibility for the citizens.</i>	<b>Consistent</b>
<b>Agencies must provide documentation that they can provide service within a reasonable period of time.</b> <i>The expenditure plans indicate that funding will be available to provide services. The services being provided are limited and not local. According to the Plan for Services, the intent is restore services to the level existing prior to June 30, 2013.</i>	<b>Consistent</b>
<b>Efficient services are obtained when proposals:</b> <ol style="list-style-type: none"> <li>Utilize existing public agencies.</li> <li>Consolidate activities and services.</li> <li>Restructure agency boundaries to provide more logical, effective, and efficient services.</li> </ol> <i>This proposal does not take advantage of opportunities to consolidate services (into one multi-service agency) or to use existing agencies (e.g. a neighboring Health Care District), which may result in greater efficiency. However, this district includes a large area including 3 fire agencies and portions of two counties. A Community Services District has the ability to provide additional services subject to the approval of the Local Agency Formation Commission. Geographic barriers add to the difficulty of consolidation with other agencies.</i>	<b>Potentially Inconsistent</b> <i>There shall be no duplication of services currently being provided.</i>

<b>Adverse impacts on adjacent areas, social and economic interests and the local government structure must be mitigated.</b>	<b>Consistent</b>
<b>Conformance with general and specific plans required.</b>	<b>Consistent</b>
<p><b>Boundaries:</b></p> <ul style="list-style-type: none"> <li>a. Definite boundaries are required.</li> <li>b. Boundaries that are favored: <ul style="list-style-type: none"> <li>• Create logical boundaries &amp; eliminate islands or illogical boundaries.</li> <li>• Follow natural or man-made features and include logical service areas.</li> </ul> </li> <li>c. Boundaries that are disfavored: <ul style="list-style-type: none"> <li>• Split neighborhoods or communities.</li> <li>• Result in islands, corridors, or peninsulas.</li> <li>• Are drawn for the primary purpose of encompassing revenue-producing territories.</li> <li>• Create areas where it is difficult to provide services.</li> </ul> </li> </ul> <p><i>The boundaries of this proposed district are designed in relation to the existing areas where services are provided.</i></p>	<b>Consistent (the proposed map does not split lines of assessment)</b>
<p><b>Revenue neutrality is required for all proposals.</b></p> <p><i>This proposal will have no impact on the Lassen and Modoc County General Fund.</i></p>	<b>Consistent</b>
<p><b>Agricultural and Open Space Land conservation standards are:</b></p> <ul style="list-style-type: none"> <li>a. The proposal must lead to planned, orderly and efficient development.</li> <li>b. An approved Sphere of Influence Plan is required.</li> <li>c. Findings with respect to alternative sites are required.</li> <li>d. Impact on adjacent agricultural/open space lands must be assessed.</li> </ul> <p><i>The formation of a new District will not lead to the conversion of any Agricultural or Open Space lands.</i></p>	<b>Consistent</b>
<p><b>Need for services must be established, and exists when:</b></p> <ul style="list-style-type: none"> <li>a. A public health and safety threat exists.</li> <li>b. The residents have requested extension of non-growth-inducing community services.</li> <li>c. The subject area is likely to be developed for urban use within 5 years.</li> </ul> <p><i>As part of the purpose and justification for this formation is to improve local response services in the area.</i></p>	<b>Consistent</b>
<p><b>Exceptions are justified on the following grounds:</b></p> <ul style="list-style-type: none"> <li>a. Unique</li> <li>b. Standards conflicts</li> <li>c. Quality/Cost</li> <li>d. No alternative is available</li> </ul> <p><i>None are required.</i></p>	

### **DISTRICT FORMATION POLICIES**

<b>Proposal to form a new district must be consistent with LAFCO Policies.</b> <i>There is no inconsistency with LAFCO's Policies</i>	<b>Largely consistent</b>
<b>Need for a new district requires</b> <b>a. Documentation of a need for the proposed services</b> <b>b. Documentation that no existing agency can adequately or efficiently provide such services</b> <i>No existing agency has the ability to financially provide said services in the territory proposed.</i>	<b>Consistent</b>
<b>Plan for Services required.</b> <i>A plan for services is contained as the Business Plan submitted to LAFCO and attached as Attachment # 3</i>	<b>Consistent</b>
<b>LAFCO will establish service pattern.</b> <i>LAFCO must establish the location and range of services that may be provided by a new district. The authorized services are to provide local ambulance and emergency medical (ALS) services and training.</i>	<b>Consistent</b>
<b>Consistency with General and Specific Plans is required.</b>	<b>Consistent</b>
<b>Conflicts with other agencies' master plans are not allowed (unless higher quality, more efficient service provision will occur). n/a</b>	<b>Consistent</b>
<b>Public benefit must be considered.</b> <i>More assessability to local ambulance and emergency medical services services while providing for more public accountability.</i>	<b>Consistent</b>
<b>Fiscal solvency is required.</b> <i>The CSD formation Committee has demonstrated fiscal accountability by providing a realistic budget for the operation in the Service Plan (Attachment #3).</i>	<b>Consistent</b>
<b>LAFCO may reduce or waive policy standards for county service areas.</b> <b>LAFCO's Tribal Land Policy n/a</b>	<b>Not applicable</b>

### **Post LAFCO Process**

Attachment #6 is a discussion outline of the Post-LAFCO Commission approval process required for the formation of this district.

### **SECTION 7: RECOMMENDED TERMS AND CONDITIONS**

The proposal includes terms and conditions, which are incorporated into the proposed resolution. Listed below are additional terms and conditions included in the proposed resolution recommended by LAFCO staff.

**Effective Date**

The effective date of this action will be upon recordation of the Certificate of Completion.

**Property Tax Transfer**

The amount of the base property tax transfer to the District shall be zero.

**Provisional Appropriations Limit**

Provisional appropriation limits for the District shall be calculated pursuant to the provisions of § 56811 of the Government Code and will be included in the Commission's Resolution of Approval. This provisional amount shall be equal to the amount raised through a special tax, which is \$221,000.

**Sphere of Influence**

LAFCO shall adopt a sphere of influence for this district following completion of a Municipal Service Review for water and wastewater services after the conclusion of one year.

**Proposition 218**

Since the Boards of Supervisors orders the election for a special tax, they shall ensure compliance with Proposition 218 throughout the process.

**Duplication of Services**

LAFCO policy does not allow the formation of districts, which duplicate services of other service providers. Since the new district will be assuming control of ambulance and emergency medical services to fill a void that was created on June 30, 2013 no duplication of services will occur.

**District Board: Membership and Method of Election**

The initial Board of Directors shall consist of registered voters residing within the district territory and be appointed after district formation as follows:

- c. The Board of Supervisors of Lassen County shall make three initial appointments including registered voters residing within the Lassen County portion of the district to the district's board of directors
- d. The Board of Supervisors of Modoc County shall make two initial appointments including registered voters residing within the Modoc County portion of the district to the district's board of directors

Once the members are appointed, the five members shall classify themselves by lot into two classes one class shall have three members and the other class shall have two members. For the class that has three members, the terms of the offices that begin after the next general district election shall be four years. For the class that has two members, the initial terms of the offices that begin after the next general district election shall be two years. Thereafter, the terms of all members shall be four years.

Terms of office of the elected board members are determined pursuant to the Uniform District Election Law and shall be elected at large.

### **Service Pattern Established**

The district shall fill a void created when the Last Frontier Healthcare District ceased to provide local ambulance and emergency medical services. The intent of the district is to restore those services.

### **Protest Hearing**

Since a formation election is required, the attached resolution requests the Board of Supervisors conduct an election confirming the formation of the District contingent upon passage of a special tax raising no less than \$221,000 in tax revenue.

### **Impartial Analysis**

The Executive Officer shall coordinate with the CSD formation committee and the counties in the creation of an Impartial Analysis for the Elections Departments to be included on the ballot for this formation measure, if deemed necessary

### **CEQA Compliance**

This application is Exempt from the California Environmental Quality Act pursuant to Section 15320 of the CEQA Guidelines (Class 20) as the proposal would not result in any change in services since they were provided within the proposed territory and 15061 b (3) whereby this activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Since this proposal is providing local emergency response there is no possibility that this activity may have a significant effect on the environment and no conditions have changed nor could have changed since the resolution initiating the proceedings was passed by both Boards of Supervisors. A Notice of Exemption is provided as *Attachment #5*.

## **SECTION 8 – RECOMMENDATION:**

The LAFCO Act requires an Executive Officer's recommendation of approval.

The Commission has the following alternatives for action at this hearing, after receiving public testimony:

**Approval.** If the Commission concurs with the terms as proposed, it may approve this proposal by adopting proposed LAFCO Resolution 2014-0001.

Staff recommends approval with the terms and conditions presented in Proposed Resolution 2014-0001.

**Conditioned Approval.** The Commission may modify any of the proposed terms and conditions.

**Continuation.** At this hearing, the Commission may approve the proposal, modify it, approve it conditionally, or continue the item for no more than 70 days (Government Code Section 56666).

**Denial.** Commission may deny this proposal. No similar proposal may be submitted within a year; unless the Commission makes a specific finding that the yearlong prohibition period is detrimental to the interests of the public. If the Commission denies this proposal, then Healthcare services will remain with the County.

Attachments:

1. LAFCO Resolution 2014-0001
2. Justification Statement
3. Business Plan - Budget
4. Best, Best and Krieger Opinion used for the formation of the Last Frontier Healthcare District
5. Notice of Exemption
6. Post Commission Approval Process Discussion Outline
7. Technical Factors for Consideration

**Resolution 2014-0001**  
**of the**  
**Lassen Local Agency Formation Commission**

*Making Determinations and Approving the Formation of the Southern Cascades Community Services District for Local Ambulance, Emergency Medical Services and Training*

WHEREAS, a Resolution of Application (Resolution 2014-02) initiating the formation of the Southern Cascades Community Services District, has been adopted by the Modoc County Board of Supervisors and a Resolution of Application (Resolution 2014-007) initiating the formation of the Southern Cascades Community Services District, has been adopted by the Lassen County Board of Supervisors pursuant to the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Government Code Section 56000 has been filed with the Executive Officer of the Local Agency Formation Commission of Lassen County, California; and said application complied with all the requirements of law and the Commission; and,

WHEREAS, the proceedings for this formation are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act, Section 56000 *et seq.* of the Government Code; and

WHEREAS, at the time and in the manner provided by law, the Executive Officer gave notice of the date, time, and place of a public hearing by the Commission upon said application; and

WHEREAS, the Executive Officer has reviewed the application and has prepared a report including staff recommendations thereon within the time required by law and has furnished copies of said report to the Commission and to all other persons required by law to receive it; and

WHEREAS, at a public hearing held February 10, 2014, the Commission considered the proposal and the report of the Executive Officer; the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section 56668; and all other relevant evidence and information presented at said hearing, including the comments of all interested parties desiring to be heard;

NOW, THEREFORE, the Lassen Local Agency Formation Commission determines, resolves and orders the following:

1. The proposal is approved, subject to confirmation of the voters and upon the terms and conditions stated herein and in Resolution 14-02 of the Modoc County Board of Supervisors and Resolution 14-07 of the Lassen County Board of Supervisors and unless modified by this resolution.
2. The territory comprises approximately 1670 unincorporated square miles more or less in Modoc and Lassen Counties and is found to be inhabited.
3. Lassen LAFCO shall be the conducting authority for this reorganization.
4. The change of organization is assigned the following distinctive short-term designation:

**Southern Cascades Community Services District—Formation**

5. The Commission hereby affirms that this application is exempt from the California Environmental Quality Act pursuant to Section 15320 of the CEQA Guidelines (Class 20) as the proposal would not result in any change in services previously provided since the County of Modoc and later the Last Frontier Healthcare District previously served the

territory with local ambulance and emergency response services and CEQA Guideline Section 15061 b (3) whereby this activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Since this proposal is replacing a previous service with a new public entity, there is no possibility that this activity may have a significant effect on the environment. The Commission hereby adopts a Notice of Exemption for this formation.

6. The proposal is consistent with the spheres of influence of all affected agencies. No duplication of locally based ambulance services shall occur in the territory between Lassen and Modoc Counties and the Lookout, Big Valley and Adin fire protection districts and the Southern Cascades Community Services District, as proposed.
7. The Commission adopts the determinations regarding consistency with LAFCO Policies contained in the staff report for this project and incorporates them by reference herein.
8. The proposal includes all the territory within the boundaries as shown in Exhibit "A" Proposed Southern Cascades Community Services District Map and Exhibit "B" Geographic Description for the Southern Cascades Community Services District.
9. The effective date of formation, if approved by the voters, shall be upon the recordation of the Certificate of Completion.
10. The initial Board of Directors shall consist of registered voters residing within the district territory and be appointed after district formation as follows:
  - a. The Board of Supervisors of Lassen County shall make three initial appointments including registered voters residing within the Lassen County portion of the district to the district's board of directors
  - b. The Board of Supervisors of Modoc County shall make two initial appointments including registered voters residing within the Modoc County portion of the district to the district's board of directors

Once the members are appointed, the five members shall classify themselves by lot into two classes one class shall have three members and the other class shall have two members. For the class that has three members, the terms of the offices that begin after the next general district election shall be four years. For the class that has two members, the initial terms of the offices that begin after the next general district election shall be two years. Thereafter, the terms of all members shall be four years.

Terms of office of the elected board members are determined pursuant to the Uniform District Election Law and shall be elected at large.

11. The district shall provide locally based ambulance and emergency medical and training services.
12. LAFCO shall adopt a sphere of influence for the district following completion of a Municipal Services Review for the services to be provided by the Southern Cascades Community Services District. LAFCO hereby adopts a provisional Sphere of Influence coterminous with the district's boundaries.



13. As stated in the LAFCO Staff Report of February 10, 2014 the amount of base and incremental property tax transferred to the new district from the Lassen and Modoc County General Fund pursuant to Section 56842 of the California Government Code shall be zero.
- 9-14. As stated in the LAFCO Staff Report of February 10, 2014, the provisional appropriations limit for the new district required by Article XIII B of the California Constitution shall be \$0 for the first fiscal year, plus the amount of any new tax approved by the voters as part of the district formation.
15. Approval of this formation is conditioned upon the Modoc and Lassen Board of Supervisor's obligation to defend, indemnify, and hold harmless the Lassen Local Agency Formation Commission and its agents, officers and employees from any claim, action or proceeding against the Commission or its agents, officers, and employees; including all costs, attorney's fees, expenses and liabilities incurred in the defense of such claim, action, or proceeding to attack, set aside, or void the approval or determinations of this Commission concerning this formation. The Lassen Local Agency Formation Commission shall promptly notify the applicant of any such claim, action, or proceeding and be entitled to representation by counsel of its choosing.
16. The district shall confer with the Lassen and Modoc County Auditors during its budgeting process and its expenditure of funds as a public agency.
17. A final PDF map along with GIS shape files a PDF showing the final geographic description shall be submitted to LAFCO prior to the recordation of the Certificate of Completion.
18. If determined required, the boundary description, fees and maps shall meet the requirements in 54902 and 54902.5 of the Government Code and as stated in the State Board of Equalization Change of Jurisdictional Boundary Requirements for Statements, Boundary Description, Maps and Schedule of Processing Fees. If rejected by the State Board of Equalization, Maps and Legal Descriptions will be revised at the expense of the proponents prior to recordation of the Certificate of Completion.
19. The Southern Cascades Community Services District shall be funded by a special tax and (or) special assessment approved by the voters residing within the boundaries of the district, and the district shall not be formed unless an adequate funding mechanism has been approved. The language in the Ballot Measure shall substantially conform with the following language:
- "Shall a measure be adopted to assess a special tax of \$65 per annum per parcel regardless of the size for up to two parcels owned by each unique landowner regardless of which county the parcels are located, the special tax will be assessed only if the Southern Cascades Community Services District is formed and shall be collected in the same manner as taxes on real property, commencing in the 2014-2015 fiscal year, with the revenue to be used for local ambulance, emergency medial response and training and any lawful purpose of the Southern Cascades Community Services District? (NOTE: Passage of a special tax is required for the District to be formed.)"*

Certification of the election results by Lassen and Modoc Counties shall be submitted to LAFCO prior to the Certificate of Completion.

20. The Modoc and Lassen Boards of Supervisors are hereby requested to order an election for the funding mechanism. Likewise, the Local Agency Formation Commission hereby requests both Boards of Supervisors to order and call an election by the registered voters residing in the proposed territory at the earliest time possible confirming the formation of this district. The form used for a district formation shall be consistent with the language contained in Government Code Section 57133(k). This formation shall be contingent upon voter approval of a funding mechanism.
21. The Executive Officer is hereby directed to transmit a certified copy of this resolution to each affected agency, as provided in G.C. Section 56853 including the Lassen and Modoc County Clerk and the Lassen and Modoc Co. Board of Supervisors.
22. The Executive Officer is directed to record a Certificate of Completion for this proposal upon completion of all proceedings.
23. Completion of proceedings shall be concluded within one-year after adoption of this resolution. If the proceedings are not concluded within one year after passage of this resolution, all proceedings shall be terminated.

The Lassen Local Agency Formation Commission at a regular meeting held on February 10, 1014, by the following roll call vote, duly passed the foregoing resolution:

Ayes:

Noes:

Abstains:

Absent:

Signed and approved by me after its passage this tenth day of February 2014.

---

Todd Eid, Chair  
Lassen LAFCO

Attest:

---

John Benoit, Executive Officer

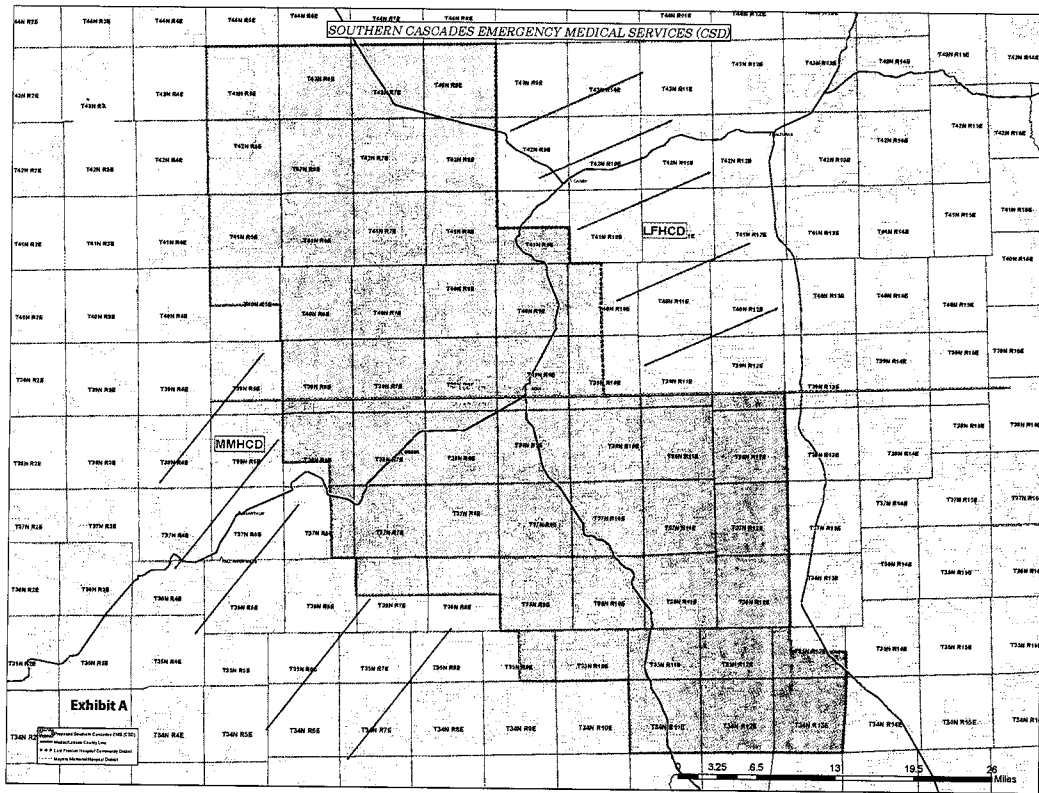


EXHIBIT A Southern Cascades Community Services District Boundary Map

## Exhibit B

### Southern Cascades CSD Formation

#### Geographic Description

All that certain real property situated, lying and being in the County of Lassen and the County of Modoc, State of California, Mount Diablo Base and Meridian described as follows:

All of Township 43 North, Range 5 East and Township 43 North, Range 6 East and Township 43 North, Range 7 East and Township 43 North, Range 8 East and Township 42 North, Range 5 East and Township 42 North, Range 6 East and Township 42 North, Range 7 East and Township 42 North, Range 8 East and Township 41 North, Range 5 East and Township 41 North, Range 6 East and Township 41 North, Range 7 East and Township 41 North, Range 8 East and the south half of Township 41 North, Range 9 East and the north half of Township 40 North, Range 5 East and Township 40 North, Range 6 East and Township 40 North, Range 7 East and Township 40 North, Range 8 East and Township 40 North, Range 9 East and the west half of Township 40 North, Range 10 East and Township 39 North, Range 6 East and Township 39 North, Range 7 East and Township 39 North, Range 8 East and Township 39 North, Range 9 East and the west half of Township 39 North, Range 10 East and that portion of the east half of Township 39 North, Range 10 East lying south of the Lassen County boundary line and that portion of Township 39 North, Range 11 East lying south of the Lassen County boundary line and that portion of Township 39 North, Range 12 East lying south of the Lassen County boundary line and the north half and the north half of the south half and the east quarter of the south half of the south half of Township 38 North, Range 6 East and Township 38 North, Range 7 East and Township 38 North, Range 8 East and Township 38 North, Range 9 East and Township 38 North, Range 10 East and Township 38 North, Range 11 East and Township 38 North, Range 12 East and the east half of the east half of Township 37 North, Range 6 East and Township 37 North, Range 7 East and Township 37 North, Range 8 East and Township 37 North, Range 9 East and Township 37 North,

Range 10 East and Township 37 North, Range 11 East and Township 37 North, Range 12 East and the north half of Township 36 North, Range 7 East and the north half of Township 36 North, Range 8 East and Township 36 North, Range 9 East and Township 36 North, Range 10 East and Township 36 North, Range 11 East and Township 36 North, Range 12 East and the east half of Township 35 North, Range 9 East and Township 35 North, Range 10 East and Township 35 North, Range 11 East and Township 35 North, Range 12 East and the south half and the west quarter of the north half of Township 35 North, Range 13 East and Township 34 North, Range 11 East and Township 34 North, Range 12 East and Township 34 North, Range 13 East.

Said territory includes 1670 square miles

## **ATTACHMENT #2**

### **PLAN FOR PROVIDING SERVICES**

#### **IN CONNECTION WITH THE FORMATION OF A COMMUNITY SERVICES DISTRICT TO PROVIDE LOCAL AMBULANCE AND EMERGENCY MEDICAL SERVICES TO THE BIG VALLEY AREA**

The Proposed District formation includes a portion of the unincorporated land within Modoc and Lassen Counties, specifically the Big Valley Area, where most of the population resides.

1. Services to be included in the affected territory are as follows
  - A. Provide local advanced life support emergency medical services (ALS), including transport.
  - B. Potentially provide non emergent transport to the district and surrounding area.
  - C. Provide local community education in Emergency Response Care and Safety Training.
2. The level and range of those services will be:
  - A. Available 24 hour local ALS service inside the district and surrounding areas.
  - B. Be accessible for mutual aid in the surrounding communities.
3. The goal and plan to provide services will be early calendar year 2015.
4. Improvements that will be made within the territory are:
  - A. To reestablish advanced life support service and medical transport.
  - B. Improve response times to the original levels as they were prior to June 2013.
  - C. Create community education programs in Emergency Response Care and Safety Training.
5. The services in this territory will be financed via a district wide taxation and funding of service fees charged to clients of the EMS services. Grant funding for the startup budget is being pursued.

### **STATEMENT OF JUSTIFICATION**

The territory within the South Western Modoc County and Northern Lassen County area is in need of local Ambulance and Emergency Medical Services since said services no longer exist. This proposal is to provide essential Emergency Medical services within this area.

# Attachment #3

## Proposed Budget

### DISTRICT OVERHEAD

D & O Insurance	\$	1,200.00
Accounting Fees	\$	1,000.00
Audit Fees	\$	1,500.00
District Manager Salary	\$	15,000.00
Contingency Fund	\$	15,000.00
Operating Reserve	\$	20,000.00
Travel Per Diem	\$	1,000.00
<b>SUBTOTAL</b>	<b>\$</b>	<b>54,700.00</b>

### FIXED COSTS

General Liability Insurance	\$	1,500.00	
Vehicle Insurance	\$	2,000.00	
Mal Practice Insurance	\$	2,000.00	
Workers Comp. Insurance	\$	15,600.00	
Provider Permits	\$	1,000.00	
Dispatch Services	\$	1,000.00	
Vehicle Depreciation	\$	15,000.00	7 YR Depreciation Schedule
Equipment Depreciation	\$	2,000.00	5 Yr Depreciation Schedule
Medical Director	\$	4,000.00	
Billing Contract	\$	23,000.00	Estimated at 6% of Gross Billing
Attorney Fees	\$	4,000.00	
<b>SUBTOTAL</b>	<b>\$</b>	<b>71,100.00</b>	

### RENT AND UTILITIES

House Rent	\$	6,000.00
Electricity	\$	1,200.00
Sewer	\$	252.00
Phone & Internet	\$	1,000.00
Heat	\$	1,200.00
TV Service	\$	500.00
<b>SUBTOTAL</b>	<b>\$</b>	<b>10,152.00</b>

### VEHICLE EXPENSES

# Attachment #3

## Proposed Budget

Fuel	\$	9,500.00	
Tires	\$	1,800.00	
Maintenance	\$	5,000.00	
Major Repairs - Set Aside	\$	2,500.00	
<b>SUBTOTAL</b>	<b>\$</b>	<b>17,800.00</b>	
<b>SALARIES AND BENEFITS</b>			
ALS FULL TIME SHIFT A	\$	48,266.40	\$17.00 x 13 hr x 3 days x 52 wks + 40% Ben
ALS FULL TIME SHIFT B	\$	48,266.40	\$17.00 x 13 hr x 3 days x 52 wks + 40 % Ben
ALS PART TIME	\$	12,641.00	\$17.00 + 10 % Stipend
BLS FULL TIME SHIFT A	\$	34,070.40	\$12.00 x 13 hr x 3 days x 52 wks + 40 % Ben
BLS FULL TIME SHIFT B	\$	34,070.40	\$12.00 x 13 hr x 3 days x 52 wks + 40 % Ben
BLS PART TIME	\$	8,923.00	12.00 + 13 hrs + 10 % Stipend
OVERTIME	\$	12,000.00	
<b>SUBTOTALS</b>	<b>\$</b>	<b>198,237.60</b>	
<b>UNIFORMS &amp; SAFETY EQUIPMENT</b>			
Shirts, Pants, Winter Coats	\$	1,000.00	
Gloves	\$	500.00	
<b>SUBTOTALS</b>	<b>\$</b>	<b>1,500.00</b>	
<b>EQUIPMENT &amp; SUPPLIES</b>			
Trauma Supplies	\$	500.00	
Medication	\$	1,000.00	
IV Fluids	\$	500.00	
<b>SUBTOTALS</b>	<b>\$</b>	<b>2,000.00</b>	



Attachment #3

Proposed Budget

<b>TRUCK SUPPLIES</b>		
Fluids	\$	400.00
Parts and Equipment	\$	500.00
<b>SUBTOTAL</b>	<b>\$</b>	<b>900.00</b>
<b>OFFICE SUPPLIES</b>		
Paper Products, Binders and Other Supplies	\$	300.00
Office Equipment	\$	500.00
<b>SUBTOTAL</b>	<b>\$</b>	<b>800.00</b>
<b>TOTAL</b>	<b>\$</b>	<b>356,389.60</b>



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

Sigrid K. Asmundson  
(916) 551-2853  
Sigrid.Asmundson@bbklaw.com  
File#: 82350.00001

400 Capitol Mall, Suite 1650  
Sacramento, CA 95814  
Phone: (916) 325-4000  
Fax: (916) 325-4010  
bbklaw.com

June 30, 2008

**VIA E-MAIL**

Judy Mason  
Save Our Hospital  
which2@yahoo.com

Re: *Legality of Special Tax for Proposed Hospital District*

Dear Ms. Mason:

Per your June 16, 2008 letter, you requested a legal opinion regarding: (1) whether the proposed special tax of \$175, to be assessed to each unique property owner located within the proposed hospital district ("Hospital Tax"), is legal; and (2) whether a property owner who is not registered to vote in the proposed hospital district can impede the implementation of the Hospital Tax. As your letter provides, a "unique property owner" is defined as an individual who owns property within the hospital district, regardless of the size of the parcel or the number of parcels owned by that property owner. It is our understanding that the Hospital Tax would be a flat-rate tax assessed once per annum to each unique property owner.

**ANALYSIS**

**1. THE PROPOSED HOSPITAL TAX IS LEGAL**

A special district, such as a hospital district formed pursuant to the Local Health Care District Law (codified as California Health and Safety Code section 32000 *et seq.*), cannot adopt a general tax; all tax measures adopted by a special district are deemed "special taxes." (Cal. Const. Art. XIII C, § 2, subd. (a) [enacted by Proposition 218].) To adopt a special tax, the hospital district must comply with the provisions of Articles XIII A and XIII D of the California Constitution, Government Code section 50075 *et seq.*, and Government Code section 53730.01.

Article XIII A, section 4 of the California Constitution provides that special districts, "by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such" special district. Furthermore, Proposition 218 enacted Article XIII D, Section 3 to prohibit the assessment of a tax upon "any parcel of property or upon any person as an incident of property ownership except... [a]ny special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A."

The Hospital Tax is not an ad valorem property tax, which is defined as a tax based on the full cash value of real property. (Cal. Const. Art. XIII A, § 1.) Instead, the Hospital Tax is a valid special tax pursuant to Article XIII D, section 3, so long as it is approved by a two-thirds vote of the electorate.

June 30, 2008  
Page 2

Through Government Code section 50075 *et seq.*, the California Legislature adopted additional provisions to regulate special taxes authorized pursuant to Article XIII A of the California Constitution. Any special district, defined as "an agency of the state, formed pursuant to general law or a special act, for the performance of governmental or proprietary functions, with limited geographic boundaries," has the authority to impose special taxes, pursuant to the provisions of Article XIII A of the California Constitution. (Gov. Code §§ 50075, 50075.5.) The proposed hospital district, to be formed pursuant to the Local Health Care District Law, qualifies as a special district in accordance with Government Code section 50075 *et seq.*

Furthermore, Government Code section 53730.01 authorizes a hospital district to propose a special tax for the purpose of operating any hospital owned solely by such hospital district:

A hospital district established pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code whose hospitals are wholly owned and are operated by the district shall have the authority to impose special taxes pursuant to Article XIII A of the California Constitution and Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 and consistent with Article 3.7 (commencing with Section 53720). The board of directors shall determine the basis and nature of any special tax and its manner of collection.

"Special taxes" as used in this section, means special taxes which apply uniformly to all taxpayers or all real property within the hospital district.

In accordance with Government Code section 53730.01, the Hospital Tax applies uniformly to all taxpayers paying property taxes within the proposed hospital district. The Hospital Tax complies with the requirements of Government Code section 53730.01 and is a valid special tax under Article XIII A, section 4 of the California Constitution.

## 2. MEANS FOR PROTESTING THE HOSPITAL TAX MEASURE BY PROPERTY OWNERS

Persons owning property located within the proposed hospital district may protest the imposition of the Hospital Tax in three ways: (i) at the public hearing, to be held prior to placement of the Hospital Tax measure on the ballot; (ii) by registering to vote and voting on the Hospital Tax measure; and (iii) by bringing an election challenge to the Hospital Tax measure either pre- or post-election.

First, pursuant to Government Code section 50077, a public agency must provide public notice and hearing prior to proposing, by ordinance or resolution, the adoption of a special tax. Because the hospital district is not yet incorporated, the entity proposing the initiative, whether it is the County or LAFCO, must notice and hold the public hearing. The public hearing must be noticed twice for two (2) consecutive weeks, at least fourteen (14) days prior to the public hearing and with at least five (5) days between each publication of the notice, in a newspaper of general circulation. (Gov. Code §§ 50022.3; 6066.) Any person may submit oral or written testimony regarding the Hospital Tax prior to or at the public hearing. Both registered voters located within the proposed hospital district as well as persons located or registered outside the proposed hospital district's boundaries may submit testimony at the public hearing. The legislative body of the entity proposing the Hospital Tax shall consider, but is not bound to, the testimony prior to adopting the ordinance or resolution proposing the Hospital Tax.

June 30, 2008  
Page 3

Second, only registered electors within the proposed hospital district's boundaries are eligible to vote on the adoption of the Hospital Tax.<sup>1</sup> Any person owning or leasing property located within the proposed hospital district has the option to register to vote prior to the election in compliance with Division 2, Chapter 2 of the Elections Code (commencing with Elections Code section 2100). However, if a property owner fails or does not qualify to register to vote at the election at which the Hospital Tax measure is proposed, that property owner cannot protest the imposition of the Hospital Tax on the grounds that he or she was unable to vote on the measure. (*Neilson v. City of California City* (2005) 133 Cal.App.4th 1296.) In *Neilson v. City of California City*, the court determined that the definition of "qualified electors" authorized to vote in an election under California Constitution Article XIII A, section 4 is limited to "registered voters" of the jurisdiction. (*Id.* at p. 1313.) The court concluded that although certain voters were not subject to the tax that they voted on (non-property owners who were residents), and some of the persons against whom the tax was assessed could not vote (property owners who were non-residents), the parcel tax against all real property within the jurisdictional boundaries of the local agency was still valid. (*Id.* at pp. 1314-1315.) As such, the Hospital Tax is valid if approved by two-thirds of the registered voters of the proposed hospital district voting in the election, even if some property owners to whom the Hospital Tax will be assessed are non-residents ineligible to vote on the Hospital Tax.

Additionally, a tax may be imposed without reference to its particular benefits to specific individuals or property. (*Fenton v. City of Delano* (1984) 162 Cal.App.3d 400.) Individuals may be taxed even if they may not benefit from the special purpose for which the tax is assessed. Thus, the Hospital Tax is valid despite the fact that it may benefit residents of the proposed hospital district to a greater degree than property owners located outside the proposed hospital district's boundaries.

Third, a property owner may protest the imposition of the Hospital Tax by bringing an election challenge to the Hospital Tax measure either pre- or post-election. A property owner would most likely bring a substantive challenge to the Hospital Tax measure to declare such measure to be invalid on constitutional or statutory grounds. To challenge the validity of a special tax, an elector may file a writ of mandamus to prohibit the placement of the Hospital Tax measure on the ballot prior to the election or, subsequent to the election, file a writ of mandamus to declare the Hospital Tax invalid as a constitutional or statutory violation. (*Citizens for Responsible Behavior v. Superior Court* (1991) 1 Cal.App.4th 1013.) However, only an elector may challenge the Hospital Tax. (*Canales v. City of Alviso* (1970) 3 Cal.3d 118.) An elector is defined as someone who is a resident of the proposed hospital district and is eighteen (18) years of age or older at least fifteen (15) days prior to the election. (Elec. Code § 321.) As such, if a property owner is not qualified to be an elector at least fifteen days prior to the election, that property owner most likely does not have standing to challenge the constitutionality of the Hospital Tax measure.

If the Hospital Tax is challenged, a court will most likely only allow it to be challenged subsequent to the election. This is because courts are generally reluctant to grant pre-election challenges. By favoring post-election challenges, the courts need not adjudicate an issue until they are clearly required to do so. As such, if the measure passes, the court will be under less of a time constraint than if required to make a pre-election determination. If the measure fails, no judicial action is necessary. This

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<sup>1</sup> "No local government or district may impose any special tax unless and until such special tax is submitted to the electorate of the local government or district and approved by a two-thirds vote of the voters voting in an election on the issue." (Gov. Code § 53722.)

June 30, 2008  
Page 4

rule generally applies when a challenge to a ballot measure is based on the alleged unconstitutionality of the substance of the proposed initiative. (*Costa v. Superior Court* (2006) 37 Cal.4th 986, 1005, citing *Senate v. Jones* (1999) 21 Cal.4th 1142, 1153.) Only where the invalidity of the measure is clear are courts more willing to intervene to determine whether the measure should be placed on, or removed from, the ballot. (*deBottari v. Norco City Council* (1985) 171 Cal.App.3d 1204.) As established above, the Hospital Tax is valid under the California Constitution and applicable statutory law. There is no clear invalidity to the Hospital Tax and, as such, a court would most likely only allow the Hospital Tax to be challenged post-election, if at all.

Please do not hesitate to contact me if you have any additional concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sigrid K. Asmundson', written in a cursive style.

Sigrid K. Asmundson  
for BEST BEST & KRIEGER LLP

**Attachment #5**

**NOTICE OF EXEMPTION**

**TO:** County Clerk  
County of Lassen  
Susanville, CA

**FROM:** LAFCO of Lassen County  
P.O. Box 2694  
Granite Bay, CA 95746

**PROJECT TITLE:** LAFCO 2014-0001 –Formation Southern Cascades  
CSD

**PROJECT LOCATION:** Alturas area including Southwestern Modoc County  
and Northwestern Lassen County including Big  
Valley and the communities of Adin, Bieber and  
Nubieber

**DESCRIPTION OF PROJECT:**

The proposed project would involve the formation of a 1,670 square mile CSD in the Alturas area of Modoc County to provide local ambulance, emergency medical services and training.

**NAME OF PUBLIC AGENCY APPROVING PROJECT:**  
Lassen Local Agency Formation Commission

**NAME OF PERSON OR AGENCY CARRYING OUT THE PROJECT:**  
Lassen Local Agency Formation Commission

**EXEMPT STATUS:**

Class 20 Categorical Exemption, The proposal would not result in any change of services in the Geographical area contemplated (CEQA Guidelines Section 15320) and whereby this proposal is also covered by the General Rule Exemption (15061 b (3)).

**REASONS WHY PROJECT IS EXEMPT:**

This application is Exempt from the California Environmental Quality Act pursuant to Section 15320 of the CEQA Guidelines (Class 20) as the proposal would not result in any change in services since they were provided within the proposed territory and 15061 b (3) whereby this activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Since this proposal is providing local emergency response there is no possibility that this activity may have a significant effect on the environment and no conditions have changed nor could have changed since the resolution initiating the proceedings was passed by both Boards of Supervisors.

**CONTACT PERSON:**  
John Benoit  
LAFCO Executive Officer

**TELEPHONE NUMBER:**  
(530) 257-0720

**By:** \_\_\_\_\_

**Date:** February 10, 2014

## Attachment #6

### Sample Post-Commission Approval Process Southern Cascades Community Services District Process - Discussion Sheet

1. LAFCO Staff - Prepare Report and Resolution - LAFCO Hearing on the Formation
2. LAFCO Staff - Commission decision - Approve/Deny/Continue or Modify
3. County Staff - Prepare Election Data including addresses and Map
4. Counties - Prepare Special Tax Order for the BOS
5. Counties - BOS adopts Special Tax Order
6. Counties - BOS Orders District Formation Ballot Measure
7. County Staff (Clerks to the Board)- Submit Orders to the Elections Department
8. County Elections - Prepares Ballots
9. County Elections - Election: Formation and Special Tax must pass -
10. County Elections - Election Certified - BOS Resolution Certifying Election
11. LAFCO Staff – After all is approved - Prepare Certificate of Completion as soon as possible after Election Certification.
12. Counties – Members of the Board of Director's are appointed
13. LAFCO Staff – Community Services District Recorded – Completion of Proceedings

## **TECHNICAL FACTORS OF CONSIDERATION**

### **Location**

The proposed district is located in the Big Valley and Madeline Plains area of Modoc and Lassen Counties including the Communities of Bieber Neubieber and Adin.

### **Population**

The area is inhabited (having more than 12 registered voters).

### **Assessed Value and Property Tax Apportionment**

The following values are from the 2013 Assessment Roll for the territory:

#### **Area in Lassen County:**

Individual Parcels	3985
Assessed Value	\$146,954,969.00

#### **Area in Modoc County:**

Individual Parcels	1768
Assessed Value	\$78,107,869.00

Formation of a new district will not modify the tax apportionment within the subject territory since no exchange of property taxes will take place. As described in the staff report, LAFCO will require an election to ensure funds are available to fund the district.

### **Land Use, General Plan and Zoning, and Development Potential**

The area covered by the proposed district is a mixture of ranch lands, forestry and range and dispersed rural residential areas as well as low density, industrial and commercial uses in the small communities.

The formation of the new district does not appear likely to affect development potential in these areas.

### **Topography, Natural Boundaries and Drainage Basins**

The 1670 square mile formation area is located within unincorporated Modoc County (755 square miles) and the unincorporated Lassen County (914 square miles) including the communities of Bieber,



N.ubieber and Adin. The formation area is located on both relative level and mountainous terrain.

#### **Utilities and Services**

<i>Service</i>	<i>Present Provider</i>	<i>Proposed Provider</i>
Fire Protection	Lookout, Adin and Big Valley	no change
Police Protection	Modoc and Lassen County Sheriff	no change
Domestic Water	Bieber – LCWWD #1	no change
Agricultural Water		no change
Public Sewer	Bieber LCWWD #1 and Adin CSD	no change
Solid Waste	Modoc and Lassen County	no change
Road/Street Maintenance	Lassen and Modoc County	no change
Libraries	Modoc and Lassen County	no change
Flood Control	Lassen-Modoc FC&WCD	no change
Street Lighting	Canby, Alturas	no change
Land Use Authority	Lassen and Modoc County	no change
Schools	County Schools	no change
Recreation	none	no change

#### **Boundaries**

The boundary of the proposed district is designed in include all territory presently within the former service area of the Adin Ambulance.